

Please reply to:

92 West Main Street
Freehold, New Jersey 07728
(848) 207-3500

May 14, 2018

ASK NJ Media Co.
Opra+request-1504-eb645270@requests.operamachine.com

Re: OPRA request dated April 19, 2018

Dear ASK NJ Media Co.:

As you are aware, your OPRA request was forwarded to me for response. An extension was obtained to respond no later than May 18, 2018. Therefore, this response is timely.

Your request is prefaced by an introductory paragraph, which asserts certain facts, facts which are not true. The Monmouth County Social Services Buildings are posted with notices prohibiting the use of cell phones in the client/waiting areas of the building. Copies of those notices are attached to the email transmitting this letter, as per your first request. These notices have been in place for over three years.

You also assert a First Amendment Constitutional Right to take photographs and/or videos of those areas. However, the New Jersey Supreme Court has not recognized a constitutional right to video. See Tarus v. Borough of Pine Hill, 189 N.J. 497 (2007) (decided on the common law right of access to public meetings).

In your second request you ask for “any and all information, documentation, legal findings, emails, policies, procedures, laws, and/or other material justifying this policy.” There are no emails, policies or procedures. The laws and legal findings are explained below.

The Social Services Buildings are not just public buildings but buildings in which members of the public obtain specialized services: NJ SNAP program; WFNJ/TANF, jointly process WFNJ/GA households, SSI, Medicaid, Child Support and Paternity program (CSP), IEVS, federally funded child welfare programs, including SACWIS, or with any other Federal or Federally aided, means-tested assistance program, assistance to the victims of Domestic Violence.

N.J.A.C. 10:87-1.14, N.J.A.C. 10:90-1.11, and N.J.A.C. 10:90-7.7 require and guarantee the confidentiality of the information provided to the agency to obtain assistance as well as of the individual(s) requesting aid. New Jersey courts have recognized that cell phones include cameras

and videotaping abilities. Tarus, supra, 189 N.J. at 511-12. N.J.S.A. 2C:25-34 guarantees the confidentiality of Domestic Violence incidents. The IRS also requires confidentiality and conducts annual training and audits for compliance. Federal HIPPA laws require further confidentiality.

N.J.S.A. 47:1A-1 requires the public agency to safeguard confidential personal information from the general public where the individual has a reasonable expectation of privacy. N.J.S.A. 47:1A-9 recognizes the grant of confidentiality encompassed within other statutes and the constitutions, both federal and state. Allowing cell phones in the areas where clients wait for their interviews compromises this mandated confidentiality.

The policy also protects the security of the clients and the workers. See N.J.S.A. 47:1A-1.1. Security is a valid concern for public buildings. Gilleran v. Township of Bloomfield, 227 N.J. 159, 172, 174 (2016).

Your last request for a statement from the Monmouth County Social Services is not a valid OPRA request. It is not a request for a document or for information. Instead, it is a demand for a concession.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (“GRC”) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The Council can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Patricia B. Quelch, Esq.
Special Monmouth County Counsel

c Michael Fitzgerald, Esq.
County Counsel